

## THE LEGISLATURE.

(Continued from Page 5.)

peel. The discretionary power to the courts to allow bail pending a trial is nowhere granted for the purpose of giving judges the right to assail special individuals. And when this discretion is exercised, it is not for the purpose of securing release for the defendants, it should be granted to the courts, and in any other portion of the country than Utah it would be considered an act of legislative enactment.

It had been announced by Blackstone, Bishop, and other famed apostles of the law, that it is one of the creatures of civilized governments, and is in fact a creature of the purest and most humane interest of man in his best estate—such a creature as grows out of that feeling to be charitable, and that there is to be just only Christian nature and progressive races can extend to their fellow man. Article VIII of the amendments to the Constitution of the United States says: "excessive bail shall not be required, and excessive fines shall not be imposed, nor shall cruel and unusual punishments be inflicted, what shall be said of the law that permits the denial of bail altogether, and that too, in a misdemeanor, the smallest offense known to the law? The practice in every State and Territory of the Union, we believe, whatever may be the statutory law upon the subject, allows bail pending both trial and appeal. Upon this subject Bishop says:

"It is, perhaps, therefore, to be accepted as the common law doctrine, that if the case has gone to final judgment, and the prisoner is taken in execution, he cannot have bail while he is pursuing measures to have the judgment reversed. But this doctrine has been changed, and bail in proper cases allowed, in England, by recent statute; and the same is probably true in many or most of our States."

Bassett, in his criminal pleadings, says that "Even after conviction in a case not capital, a prisoner may, under the rules and practice of the common law, be discharged on bail to appear and abide the sentence of the court."

Davis vs. State; 6 Howard (Miss.), 359; and ex parte Dyson, 25 Miss., 394. The common code of Iowa, page 643, sec. 4107, says: "All defendants are bailable both before and after conviction, by sufficient sureties, except for offenses heretofore punishable with death."

The Constitution of the State of Texas provides that "all persons shall be admitted to bail on sufficient sureties."

If, therefore, the practice in other States and Territories of the Union allows bail pending appeal, why should it not be allowed in Utah? Is a man to be treated as a criminal in Utah simply because he is accused of a crime? Was the Legislature to sit silently and see the dark and horrid rule of the Dukes of Venice, when an anonymous charge thrust into the brazen lion's mouth by some personal enemy, meant a man's conviction and death? It would seem so, for the reason that the one man—in the autocratic exercise of a power which he has shown himself totally unfit to wield—has so decreed it. Bail will do for other places, but not for Utah, and this doctrine is forced upon us in defiance of law and precedent.

Not only is the right to bail permitted by law and precedent elsewhere, but also its kindred right, that of appeal, the inherent and constitutional right of every citizen, is strongly guarded by the laws of every State and Territory in the Union. In fact the whole spirit and genius of our laws, from the Constitution down, provides for the perpetuity and preservation of the right, that of what we call the right of appeal. If bail pending the decision of the higher tribunal is denied, and the accused is being punished the same as if he were convicted? If the crime with which he is charged is a misdemeanor, he may be imprisoned pending appeal to the Supreme Court of the Territory for a longer term than the longest sentence that could be imposed were he found guilty. And if the charge is such that he would be entitled to an appeal to the Supreme Court of the United States, if bail were denied him pending the same, he might be imprisoned twice or thrice as long as the longest sentence that he could receive. Were he ultimately acquitted, he would have suffered like a common criminal during all the time that he was prosecuting his appeal, and yet be all the time innocent. Were he guilty, he would suffer a double penalty, one while prosecuting his appeal and one after final judgment, so that a denial of bail pending appeal is equally unjust whether the prisoner be guilty or innocent. Whether guilty or innocent, alike he has no redress. If innocent, he must suffer like a criminal, because he is accused, and if guilty a double penalty because he appeals. Thus the right of appeal, designed to be a safeguard of liberty and a bar to injustice, with the right of bail denied, becomes a delusion and a snare, by which a double punishment is inflicted upon the guilty, and equally harsh and cruel punishment inflicted upon the innocent. In order, therefore, that the right of appeal may be of any practical benefit to the accused, bail pending the same must be granted; and justice, humanity and law alike demand that it should be granted in every case where there is a reasonable certainty that bail will produce the defendant in court when wanted. Even in civil cases, the judgment debtor may stay execution when he appeals by giving a bond that he will abide the decree of the higher tribunal; and shall we continue a system which places a man's property at the above personal liberty?

In view of all of which we have here set down, and of the greater measure of truth which exists in the same direction, we respectfully claim that the bill vetoed by His Excellency, Governor Eli H. Murray, were strictly within our sphere of legislative authority. We claim that the veto of the said bills were not given to advance the cause of justice, to benefit the commonwealth and aid in the execution of the laws; but rather to gratify private resentment, to permit bigoted courts to heap further indignity and wrong upon a special and proscribed class, and to add another injury to the many now suffered by this devoted Territory.

Respectfully submitted,  
JOSUAH A. WEST,  
Chairman special joint committee on the Governor's vetoes.

Mr. KIRK moved that the resolutions be adopted as the sense of the House. Carried.

Mr. McLAUGHLIN again demanded the yeas and nays, and they were again called with the same result as before.

The new Morgan charter bill was received from the Council, passed and sent to the House.

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A message was received from the Governor, announcing the passage of H. F. 23, the bill in relation to estates of decedents; H. F. 27, the bill authorizing the Insane Asylum Board to appoint a secretary of their board; H. F. 32, Smithfield City charter; H. F. 39, the act in relation to mortgages on personal property; H. F. 60, amending the district school act; H. F. 61, providing for the removal of insane convicts; H. F. 65, relating to the procedure of probate courts in settlement of estates and in guardianship; H. F. 46, Alchone City charter; H. F. 48, to incorporate Pleasant Grove; H. F. 71, location of mining claims; H. F. 73, amending section 278, chapter 5 of the penal code, and H. F. 80, amending the charter of Fairview.

Another message was received suggesting certain small changes in the Lehi City bill; the changes were made, the bill re-passed and forwarded to the Council.

The officers' spirits fell below zero, when the Council message was read announcing that that body had killed McLaughlin's measure for the payment of officers.

The Speaker stated that he had received the following communication from THE HERALD COMPANY:

OFFICE OF THE HERALD,  
Salt Lake City, March 11th, 1886.

Hon. W. W. Riser, Speaker House of Representatives:

Sir:—Observing that the members and officers of the Legislature have been deprived of their pay by action of Congress, and that the general appropriation bill has failed of passage, we beg to ask the acceptance of a receipted bill from this company for DAILY HERALD's furnished the members and officers of your honorable body, during the Twenty-seventh Session.

Respectfully,  
THE HERALD COMPANY.

Mr. RISER moved that the courtesy be accepted with thanks. Carried.

A message was received from the Governor, vetoing H. F. 40, the bill prescribing the qualifications of electors, containing the oath contained in the Edmunds law, etc. The message preposterously states that the law would be one by which the old system of "marking" votes would be renewed.

Mr. KIRK said this had been a fair and equitable election bill, in conformity with the suggestions of the Governor himself; he therefore moved that it be referred to the committee on vetoes for consideration. Carried.

Mr. HOWELL returned the bill requiring reports from county clerks as unfinished business; also the reports of Emery, Kane and Utah Counties as satisfactory.

Mr. CANNON returned the two petitions of Prof. White, asking an appropriation for a deaf mute institute, with the statement that the committee had succeeded in having \$10,000 for the education of deaf mutes inserted in the appropriation bill. He also reported back the bill requiring the commissioners to locate university lands to make certain reports as unfinished business.

A report from F. A. Mitchell, Chas. W. Stayner and J. M. Waddell, the present commissioners, accompanied the bill, and was ordered spread on the minutes.

Shortly before this a messenger had appeared and beckoned Mr. McLaughlin outside. The gentleman went down with Secretary Thomas to the Governor's office, and now returned with a bill, which, by unanimous consent, he was allowed to introduce.

The bill read as follows:  
A bill to provide for the payment of certain claims and for other purposes.

Be it enacted by the Governor and Legislative Assembly of the Territory of Utah: That the Secretary of the Territory is hereby authorized to receive from any person having in his possession any funds of the Territory, and apply the same to the payment of the following claims: (then follows the list of the officers in both as assemblies, an exact copy of the list in McLaughlin's previous bill, excepting the two last items to the chaplains for clerical pay, which are omitted, to the liabilities incurred by individuals in conducting the Insane Asylum, and for the maintenance and care of the inmates, not to exceed \$10,000.)

The bill was read the first and second times. Mr. Thurman said that he saw one material objection, which was that the Secretary was allowed to receive and disburse so large a sum without bonds. Mr. McLaughlin said this was only the rough draft of the bill as the Governor proposed it; there was a chance to pay the officers of the Legislature and to provide for the asylum, if the members saw fit to take advantage of the opportunity.

The bill was referred to the committee on judiciary with instructions to make an early report.

THE SPEAKER called the attention of the House to the fact that the Sergeant-at-Arms was held personally responsible for all stamps, papers, stationery, etc., furnished the members during the session.

Mr. KIRK moved that the Sergeant be instructed to furnish all members with a bill of the amount furnished each, so that each might pay it out of his own pocket. Carried.

Mr. SMOOR introduced a resolution providing that each member be given a copy of West's map, with which to "steer his way home." Tabled amid laughter. Mr. West remarking that the map would be found a reliable guide.

At 3.30 a recess was taken until 8 o'clock.

At 8 o'clock the House was filled with spectators, and all the members were present; P. L. Williams, the Governor's appointee for Superintendent of Schools, occupied a seat at Mr. McLaughlin's side. Arthur Pratt and Bol Roberts also stayed in. James Jack, Territorial Treasurer, H. B. Clawson, Judge McBride, Col. Ferry, B. G. Raybould, Mr. S. B. Young, H. J. Faust, H. W. Lawrence, Judge Pyper, P. S. Richards, Judge Dusenberry, L. H. Martinson, Dr. Park, Prof. White, J. F. Wells, and C. S. Burton were either present, or dropped in during the evening. Secretary Thomas oscillated busily back and forth from both Houses to the Governor's office, and everything wore a look of animation, such as has not been previously seen in the House.

The enrollment committee reported several bills sent to the Governor.

A communication from the Governor was read, naming several objections to Farver's stock bill. As there were of considerable importance the bill and message were referred to the committee on live stock.

The bill relating to the charter of Richfield City, was received back from the Governor with suggestions which were adopted and forwarded to the Council for action thereon.

Mr. THURMAN presented a joint memorial to Congress asking for certain lands adjoining the Insane Asylum in Utah County, which was adopted by the House, and forwarded to the Council.

The bill extending the powers of City Councils was received back from the Governor with suggestions which were adopted and the bill re-passed and forwarded to the Council.

A bill was introduced by Mr. Thurman for the benefit of prisoners released from the Utah Penitentiary for good conduct. The bill provides a suit of clothes or \$15 to all prisoners issuing from the Penitentiary. The bill was referred to the committee on reform school.

H. F. 62 amending the code of civil procedure was received back from the Governor with suggestions which were adopted and the bill passed and forwarded to the Council.

Mr. CREEK introduced a bill making it a misdemeanor instead of a felony to obstruct the lawful distribution of water, this took the place of one previously sent the Governor but mislaid and was passed.

THURMAN's benefit of the prisoners bill was reported back from the committee favorably with amendments. Passed and sent to the Council.

Mr. THURMAN introduced a joint resolution authorizing the Auditor to redeem outstanding jury certificates in civil cases for 1882 and 1883, to the amount of about \$1,000. Adopted and sent to the Council.

Mr. THURMAN stated that the amounts referred to had been appropriated for the purpose named, but warrants had never been issued for them by the Auditor.

Mr. CANNON reported back the Council measure providing that county boards shall only be reimbursed for two sessions, with amendments, which were adopted.

It was now 10 o'clock, and a recess was taken for thirty minutes. It was 10.45, however, before order was again called, and the spectators were not so numerous as before.

A communication was received from the Governor, approving "An act to lessen the term of sentence of convicts for good conduct." "An act amending an act to incorporate Provo City," and the "Act incorporating American Fork."

"The bill preventing the befooling of waters used for domestic purposes was passed, agreeing to the Governor's objections and returned to the Council.

A communication was received from the Governor, disapproving the bill providing for a board of equalization. His reasons for so doing were that probate judges are already presiding officers over county boards of equalization and being so were the most objectionable persons who could be selected to sit as a Territorial Board of Equalization. Referred to committee on ways and means, who after a few minutes consideration, reported that the Governor had stated that it was contrary to law for the Legislature to appoint a board of equalization; this the committee thought was within the Legislative prerogative and no argument long thought possible, the bill was laid on the table.

The Speaker was pleased to notify the members that the Sergeant-at-Arms had an itemized account of their indebtedness, ready for payment.

Mr. THURMAN objected to the introduction of bills at this late hour. (Laughter.)

The "benefit of prisoners bill" as amended (restricting the benefits to Territorial prisoners) in the Council, was received back. Some discussion arose, and Mr. H. B. Clawson was asked to state whether United States prisoners received any amount on emerging from the Pen; he stated that they now received \$15 in clothing and \$3 in cash, and the amendments were concurred in.

Shortly after 11 o'clock another long bill occurred, and there was a general dispersing until 1 o'clock, the clerks being the only busy persons in the House, and the sergeant occupying himself to see that a quorum (thirteen members) was kept in the room.

1.15 a.m.  
The Speaker, McCullough, Lund, Creer and Smoot, were slumbering in their chairs or on benches at this hour, and everything was dead, awaiting for something from His Excellency below; Hatch, who had been laboring with the Governor for several consecutive hours, appeared with the intelligence that the Executive branch of the Government was freezing, and the usher was dispatched to build him a fire. Arthur Pratt and one or two of his other appointees, remain with him, though his room has been crowded till now by P. H. Lannan, Judge Rosborough, Judge McBride and others. Mr. McLaughlin moved that a recess of eight hours be taken. His Excellency was below, doing nothing, waiting for bills from the enrolling clerk, who was hard at work.

Mr. West opposed the motion as long as the other House was in session.

The Speaker said it had been thought a recess might break up the session.

The motion secured no second.

Mr. McLAUGHLIN said if he could not get a recess he would ask leave to introduce a bill providing that nothing in the hotel keepers' "Ten on baggage act" shall be construed to apply to members and officers of this Legislature. Passed and rushed through to the Council.

2 A.M.  
The Council took a recess and at the request of Mr. Taylor, temporary chairman, the vocalists of both houses, prominent among whom were the basses of King, Thurbert and Creer, rendered "Good Night, Ladies," in a rousing manner, which awoke the echoes, and Speaker Riser at the same time. A messenger boy with a hot stew for the Speaker entered, and that officer's desk was at once the centre of attraction.

The Governor departed, leaving word that he was to be telephoned for when wanted.

No one seems to know exactly what the wait is for, but there are yet fifteen or twenty bills in the executive's hands, and a number which the enrolling clerk is rushing through to meet his objections.

Enough members were awakened to pass a new bill introduced by King relative to impounding animals, estrays, etc. It was rushed through and sent to the Council, the Speaker falling asleep again as the messenger clerk appeared.

3 A.M.  
The Council passed a resolution tendering the freedom of the Council, including the box of oranges, to the members of the House; at this hour the members who are awake led by the pugilistic Young are peeling with orange peel the members who are asleep. It is generally granted in both Houses that it is necessary to keep up the session without recess or adjournment, and there will be no adjournment until the act measure has either been vetoed or

approved by the Governor, and until all the red-hot resolutions to be introduced on his vetoes have been read and adopted. There are several such on the Speaker's desk which will be read some time to day—a final adjournment is not now probable until near noon.

The committee on judiciary at once sat down on the bill introduced by McLaughlin to pay the officers and to carry on the Insane Asylum; it is universally regarded as a "dodge" on the part of the Governor.

4.10.  
Mr. KIRK succeeded in waking up enough slumberers to pass H. F. 86, to prevent the spread of contagious diseases among stock.

The Governor has retired, and is expected to be back at 9 o'clock.

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disorders of the Nervous and Blood Systems, Nervous Prostration, General Debility, Mental and Physical Depression,

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